

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Revocation of the Mortgage  
3 Broker License of:

No. 09F-BD031-BNK

4 **ARIZONA DISCOUNT MORTGAGE, LLC**  
5 **AND MICHAEL T. RILEY,**  
6 **OWNER/RESPONSIBLE INDIVIDUAL**  
7 629 North Sarival Avenue  
Goodyear, Arizona 85338

**NOTICE OF HEARING AND  
COMPLAINT**

Respondents.

8 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138,  
9 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative  
10 Hearings, an independent agency, and is scheduled for November 18, 2008, at 9:00 a.m., at the  
11 Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-  
12 9826 (the "Hearing").

13 The purpose of the Hearing is to determine whether grounds exist to suspend or revoke  
14 Respondents' mortgage broker license; to order any other remedy necessary or proper for the  
15 enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S.  
16 §§ 6-123 and 6-131; and to impose a civil money penalty pursuant to A.R.S. § 6-132.

17 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of  
18 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied  
19 or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to  
20 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the  
21 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office  
22 of Administrative Hearings has designated Brian Tully at the address and phone number listed  
23 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative  
24 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the  
25 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final  
26 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law

1 Judge is specifically prohibited from entering.

2 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**  
3 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue  
4 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of  
5 Administrative Hearings.

6 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by  
7 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable  
8 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence  
9 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative  
10 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.  
11 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

12 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be  
13 made by a court reporter or by electronic means. Any party that requests a transcript of the  
14 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

15 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant  
16 Attorney General Erin O. Gallagher, (602) 542-8935, 1275 West Washington, Phoenix, Arizona  
17 85007.

#### 18 **NOTICE OF APPLICABLE RULES**

19 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")  
20 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting  
21 forth the rules of practice and procedure applicable in contested cases and appealable agency actions  
22 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules  
23 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through  
24 R2-19-122. A copy of these rules is enclosed.

25 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**  
26 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents'

1 position or defense and shall specifically admit or deny each of the assertions contained in this  
2 Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain  
3 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall  
4 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.  
5 When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an  
6 assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder.  
7 Any defense not raised in the answer is deemed waived.

8 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**  
9 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as  
10 true and admitted and the Superintendent may take whatever action is appropriate, including  
11 suspension, revocation, denial of Respondents' license or affirming an order to Cease and Desist and  
12 imposition of a civil penalty or restitution to any injured party.

13 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial  
14 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or  
15 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,  
16 Arizona 85007 and to Assistant Attorney General Erin O. Gallagher, Consumer Protection &  
17 Advocacy Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

18 **Persons with disabilities may request reasonable accommodations such as interpreters,**  
19 **alternative format or assistance with physical accessibility.** Requests for accommodations must  
20 be made as early as possible to allow time to arrange the accommodations. If accommodations are  
21 required, call the Office of Administrative Hearings at (602) 542-9826.

## 22 **COMPLAINT**

23 1. Respondent Arizona Discount Mortgage, LLC ("ADM") is an Arizona limited liability  
24 company, authorized to transact business in Arizona as a mortgage broker, license number  
25 MB 0908156, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of ADM's business is that  
26 of making, negotiating, or offering to make or negotiate a loans secured by Arizona real property

1 within the meaning of A.R.S. § 6-901(6).

2 2. Respondent Michael T. Riley ("Mr. Riley") is the Owner and Responsible Individual of  
3 ADM. Mr. Riley is authorized to transact business in Arizona as a mortgage broker within the  
4 meaning of A.R.S. § 6-903(E).

5 3. A March 4, 2008 examination of ADM was scheduled by the Department. However,  
6 Respondents refused to allow the examination of ADM to occur, specifically:

- 7 a. On Monday, February 25, 2008, the Department mailed a notice to ADM's  
8 Responsible Individual, Mr. Riley, informing him that a statutory compliance  
9 examination was scheduled for Tuesday, March 4, 2008 at 9:30 a.m.;
- 10 b. During a telephone conversation on or about Thursday, March 6, 2008 with the  
11 examiner in charge of said examination, Mr. Riley informed the examiner that he  
12 intended to shred all records related to ADM's mortgage broker business; and
- 13 c. During a telephone conversation with the examiner on Tuesday, April 29, 2008, Mr.  
14 Riley confirmed "every single document that had to do with Arizona Discount  
15 Mortgage, LLC was shredded." Mr. Riley further confirmed that he "shredded the  
16 documents on the day [the Department] scheduled the exam."

17 4. A review of Respondents' documents and records already in the Department's possession  
18 revealed that ADM and Mr. Riley:

- 19 a. Failed to maintain a complete organizational file, specifically:
  - 20 i. Respondents failed to provide a complete organizational file including: (a)  
21 Organizational documents for the entity; (b) Minutes; (c) A record, such as a  
22 stock or ownership transfer ledger, showing ownership of all proportional  
23 equity interests in the licensee, ascertainable as of any given records date; and  
24 (d) Annual report, if required by law, because Mr. Riley destroyed all  
25 mortgage broker business records upon notice of examination;
- 26 b. Issued false, misleading and/or deceptive advertisements/solicitations and failed to

1 include the required disclosures within regulated advertising, specifically:

- 2 i. Respondents published a payment schedule comparing estimates of "old"  
3 payments, based on an interest rate of six and one half percent (6.50%) to an  
4 estimated "new" payment based on an interest rate of one percent (1.00%),  
5 specifically:

- 6 1. The payment schedule includes a column that demonstrates an  
7 estimated "savings" the borrowers may achieve if they refinance out of  
8 their current mortgages into the program offering the "new" payment;  
9 2. The "new" payments are referring to a Pay Option Adjustable Rate  
10 Mortgage ("ARM") program;  
11 3. In this case, the "savings" between the 6.50% "old" payment and the  
12 1.00% "new" payment is deferred principal and interest which is  
13 added to the outstanding mortgage loan balance; and  
14 4. The word "savings" is false and deceptive because the proposed  
15 "savings" are added to the mortgage loan amount, and the borrower  
16 remains obligated to pay the falsely purported "savings." The  
17 advertisement misleads prospective borrowers into believing they will  
18 save money by refinancing their mortgages into a Pay Option ARM,  
19 which will only delay payment of the full monthly installment to a  
20 later date; and

- 21 ii. Respondents failed to disclose the following items, as applicable under  
22 Regulation Z:

- 23 1. The amount or percentage of the down payment;  
24 2. The terms of the repayment; and  
25 3. The Annual Percentage Rate ("APR") associated with "new" payments  
26 listed on the advertisement;

- 1 c. Failed to maintain samples of every piece of advertising relating to the mortgage  
2 broker's business in Arizona, specifically:
- 3 i. Respondents failed to provide samples of advertising/solicitations because Mr.  
4 Riley destroyed all mortgage broker business records upon notice of the  
5 examination;
- 6 d. Failed to maintain correct and complete records, specifically:
- 7 i. Respondents, upon notice of examination, shredded all records, demonstrating  
8 a gross failure to maintain those records as mandated;
- 9 e. Failed to maintain a complete record of monies received, specifically:
- 10 i. Respondents failed to provide a record of all monies received in connection  
11 with a mortgage loan, including: (a) Payor's name; (b) Date received; (c)  
12 Amount; and (d) Receipt's purpose, including identification of related loan, if  
13 any, because Mr. Riley destroyed all mortgage broker business records upon  
14 notice of examination;
- 15 f. Failed to maintain a complete listing of checks written, specifically:
- 16 i. Respondents failed to provide a listing of checks written, including: (a)  
17 Payee's name; (b) Amount; (c) Date; and (d) Payment's purpose, including  
18 identification of a related loan, if any, because Mr. Riley destroyed all  
19 mortgage broker business records upon notice of the examination;
- 20 g. Failed to maintain bank account activity source documents, specifically:
- 21 i. Respondents failed to provide bank activity source documents, including  
22 receipted deposit tickets, numbered receipts for cash, bank account statements,  
23 paid checks, and bank advices, because Mr. Riley destroyed all mortgage  
24 broker business records upon notice of the examination;
- 25 h. Failed to update and reconcile records, specifically:
- 26 i. Respondents failed to provide evidence that they update and reconcile records,

1 monthly or quarterly, because Mr. Riley destroyed all mortgage broker  
2 records upon notice of the examination;

3 i. Failed to maintain records for the prescribed statutory period, specifically:

4 i. Respondents failed to provide evidence demonstrating records are maintained  
5 for the required two (2) or five (5) year statutorily mandated retention period;

6 j. Failed to maintain originals or copies of loan transactions, specifically:

7 i. Respondents failed to provide originals or copies of mortgage loan transaction  
8 files because Mr. Riley destroyed all records related to mortgage broker  
9 business;

10 k. Allowed borrowers to sign regulated documents containing blank spaces, specifically:

11 i. Five (5) initial Truth in Lending Disclosure ("TIL") statements were signed in  
12 blank;

13 ii. One (1) Disclosure Notices form was signed in blank;

14 iii. One (1) Equal Credit Opportunity Act form was signed in blank;

15 iv. One (1) Notice to Applicant of Right to Receive Copy of Appraisal Report  
16 form was signed in blank; and

17 v. Two (2) Request for Copy of Tax Return forms (4506) were signed in blank;

18 l. Failed to comply with the disclosure requirements of Title I of the Consumer Credit  
19 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement  
20 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated  
21 under these acts, specifically:

22 i. Four (4) initial TIL Disclosure statements were signed in blank;

23 ii. Two (2) Request for Copy of Tax Return forms (4506) were signed in blank;

24 iii. Two (2) initial TIL Disclosure statements fail to properly acknowledge the  
25 variable rate feature;

26 iv. The APR on four (4) initial TIL statements was miscalculated; and

- 1 v. Two (2) Good Faith Estimates falsely state a Yield Spread Premium of 0-  
2 3.0%; however, Respondents collected a greater Yield Spread Premium than  
3 that disclosed;
- 4 m. Used a disclosure in conflict with Arizona law, specifically:
- 5 i. Respondents used a disclosure entitled "Notice of Right to Receive an  
6 Appraisal Report" that includes a 90-day limit on the amount of time an  
7 applicant may request the appraisal;
- 8 n. Made false promises, misrepresentations and/or concealed essential or material facts  
9 in the course of the mortgage broker business, specifically:
- 10 i. Respondent published a payment schedule comparing estimates of "old"  
11 payments, based on an interest rate of 6.50% to an estimated "new" payment  
12 based on an interest rate of 1.00%, specifically:
- 13 1. The payment schedule includes a column that demonstrates an  
14 estimated "savings" the borrower may achieve if they refinance out of  
15 their current mortgage into the program offering the "new" payment;
- 16 2. The "new" payments are referring to a Pay Option ARM program,  
17 which includes an option to pay only one percent (1.00%) of the  
18 principal amount, and defer the remainder of the full principal and  
19 interest payment;
- 20 3. In this case, the "savings" between the 6.50% "old" payment and the  
21 1.00% "new" payment is deferred principal and interest which is  
22 added to the outstanding mortgage loan balance; and
- 23 4. The word "savings" is false and deceptive because the proposed  
24 "savings" is added to the mortgage loan amount, and the borrower  
25 remains obligated to pay it. The advertisement misleads perspective  
26 borrowers into believing they will save money by refinancing their



1 mortgage into a Pay Option ARM. The borrower will only delay  
2 payment of the remainder of their full monthly installment to a later  
3 date;

- 4 ii. Respondents circulated an advertisement in the Arizona Republic which  
5 contained the statement, "Refinance NOW, and you can SKIP the next 4  
6 PAYMENTS!" about which the Department received several complaints,  
7 specifically:

8 1. According to Complaint #4012120, Respondents told the  
9 Complainants the "skip the next 4 payments" feature only applied to  
10 refinancing owner-occupied properties;

11 a. Respondents deceptively omitted the material fact from the  
12 advertisement that the "skip the next 4 payments" feature only  
13 applied to refinancing owner-occupied properties; and

14 2. According to Complaint #4012055, the Complainant refinanced an  
15 owner-occupied property and, regardless, Respondents breached their  
16 commitment to arrange for the Complainant to skip his next four (4)  
17 mortgage payments. Once the Department processed the Complaint,  
18 Respondents agreed to pay the Complainant's four (4) mortgage  
19 payments;

20 a. Respondents improperly made a false promise to the borrower to  
21 skip four (4) mortgage payments and only satisfied their promise  
22 upon the Department's involvement; and

- 23 iii. Respondents originated Pay Option ARM loans for the elderly borrowers as  
24 described below. The same loan officer originated the mortgage loans for the  
25 following three borrowers:

26 1. Complaint #4011715, received by the Department on March 29, 2007:

- a. According to an interview conducted with this Complainant, the loan officer presented a mortgage program to the Complainant and misrepresented and/or concealed the actual payments and terms of that mortgage program;
- b. The loan officer delivered a TIL Disclosure dated July 31, 2006 to the Complainant, which demonstrated false promises of low monthly mortgage payments;
- c. Under the Respondents' payment schedule, which reflects the minimum payment option, the unpaid principal and interest will be deferred and added to the original principal amount and subsequently increase the unpaid principal amount;
- d. The Complainant stated that the loan officer did not disclose that deferred principal and interest would be added to the original mortgage principal amount;
- e. When the unpaid principal balance reaches one hundred fifteen percent (115%) of the original principal amount, the Complainant becomes ineligible for the minimum payment option;
- f. Following the forty-eighth (48<sup>th</sup>) month, the Complainant's monthly mortgage payment increases from eight hundred ninety nine dollars (\$899.00) to one thousand, eight hundred forty eight dollars (\$1,848.00) as a result of the 115% feature concealed by the loan officer;
- g. The TIL Disclosure provided to the Complainant by the loan officer falsely states that the Complainant will have a monthly mortgage payment of nine hundred sixty six dollars and forty four cents (\$966.44) during the fifth year of the mortgage;

- 1 h. Respondents grossly misrepresented the payment amounts to the  
2 Complainant and falsely promised the Complainant low minimum  
3 monthly payments for a greater period than the Pay Option ARM  
4 program will actually permit; and
- 5 i. In addition, the total months included in Respondents' payment  
6 schedule on the TIL Disclosure is sixty (60) months, or five (5)  
7 years. Respondents omitted the last three hundred (300) payments  
8 from the payment schedule on the TIL they issued to the  
9 Complainant, concealing the full principal and interest the  
10 Complainant would be obligated to pay every month after the first  
11 sixty months;

12 2. Complaint #4011794, received by the Department on April 9, 2007:

- 13 a. According to an interview conducted with these Complainants in  
14 June 2007, the loan officer presented a mortgage program to the  
15 Complainants and misrepresented and/or concealed the actual  
16 payments and terms of that mortgage program;
- 17 b. The loan officer delivered a TIL Disclosure dated November 9,  
18 2006 to the Complainants, which falsely promised exorbitantly low  
19 monthly mortgage payments;
- 20 c. Under Respondents' payment schedule, which reflects the  
21 minimum payment option, the unpaid principal and interest will be  
22 deferred and added to the original principal amount and  
23 subsequently increase the unpaid principal amount;
- 24 d. The Complainants stated that loan officer placed a great deal of  
25 emphasis on the low monthly payment as benefit of the Pay Option  
26 ARM program;

1 e. The following illustrates the gross deficiency between the payment  
2 schedule Respondents falsely promised and the actual payment  
3 schedule generated by the lender:

4 i. Respondents' Payment Schedule:

- 5 1. 12 Monthly payments of \$328.48;
- 6 2. 12 Monthly payments of \$353.11;
- 7 3. 12 Monthly payments of \$379.60;
- 8 4. 12 Monthly payments of \$408.07; and
- 9 5. 12 Monthly payments of \$438.67;

10 ii. Lender's Payment Schedule:

- 11 1. 12 Monthly payments of \$324.29;
- 12 2. 12 Monthly payments of \$348.61;
- 13 3. 11 Monthly payments of \$374.76;
- 14 4. 324 Monthly payments of \$906.48; and
- 15 5. 1 Monthly payment of \$901.35;

16 f. According to the TIL Disclosure generated by the lender, the  
17 Complainants' monthly mortgage payment increases significantly  
18 after the thirty-fifth (35<sup>th</sup>) monthly payment;

19 g. Respondents' TIL Disclosure clearly represents a schedule wherein  
20 the Complainants will be eligible for an extremely low monthly  
21 mortgage payment for sixty (60) months;

22 h. Respondents grossly misrepresented the payment amounts to the  
23 Complainants and falsely promised them low minimum monthly  
24 payments for a greater duration than the Pay Option ARM program  
25 will actually permit;

26 i. The total months included in Respondents' payment schedule on

1 the TIL Disclosure is sixty (60) months or five (5) years; and

- 2 j. Respondent omitted the remaining three hundred (300) payments,  
3 or twenty five (25) years, from the payment schedule on the TIL  
4 Disclosure issued to the Complainants, concealing the full  
5 principal and interest the Complainants would be obligated to pay  
6 every month after the first sixty (60) months; and

7 3. Complaint #4012120, received by the Department on June 7, 2007:

- 8 a. According to an interview conducted with these Complainants in  
9 June 2007, the loan officer presented a mortgage program to the  
10 Complainants and misrepresented and/or concealed the actual  
11 payments and terms of that mortgage program;  
12 b. The loan officer delivered a mortgage loan disclosure dated  
13 January 16, 2007 to the Complainants, which falsely promised  
14 exorbitantly low monthly mortgage payments;  
15 c. The Complainants stated the loan officer did not disclose that  
16 deferred principal and interest would be added to the original  
17 mortgage principal amount;  
18 d. The following illustrates the gross deficiency between the payment  
19 schedule Respondents promised and the actual payment schedule  
20 generated by the lender:

21 i. Respondents' Payment Schedule:

- 22 1. 12 Monthly payments of \$337.72;  
23 2. 12 Monthly payments of \$363.05;  
24 3. 12 Monthly payments of \$390.18;  
25 4. 12 Monthly payments of \$419.02;  
26 5. 12 Monthly payments of \$451.02; and

6. 300 Monthly payments of \$754.69;
- ii. Lender's Payment Schedule:
  1. 12 Monthly payments of \$410.83;
  2. 12 Monthly payments of \$441.64;
  3. 7 Monthly payments of \$474.77; and
  4. 329 Monthly payments of \$1,164.40;
- e. According to the disclosure generated by the lender, the Complainants' monthly mortgage payment increases significantly after the thirty-first (31<sup>st</sup>) monthly payment;
- f. Respondent's disclosure clearly represents a schedule wherein the Complainants will be eligible for an extremely low payment for sixty (60) months; and
- g. Respondents grossly misrepresented the payment amounts to the Complainants and falsely promised low minimum monthly payments for a greater duration than the Pay Option ARM will actually permit; and
- o. Engaged in illegal or improper business practices, specifically:
  - i. Respondents engaged in a practice of improperly notarizing mortgage loan documents, specifically:
    1. Complaint #4012120, received by the Department on June 7, 2007:
      - a. According to a written statement by the Complainants, dated July 28, 2007, they were not present when the notary notarized the mortgage loan closing documents;
      - b. According to a letter from the Office of the Secretary of State, dated December 6, 2007, the notary admits that the Complainants were not present when the mortgage loan closing documents were

notarized; and

c. The Office of the Secretary of State revoked the notary's public commission;

2. Complaint #4011715, received by the Department on March 28, 2007:

a. According to a written statement by the Complainant, the notary was not present when the mortgage loan closing documents were notarized; and

3. Complaint #4011794, received by the Department on April 9, 2007:

a. According to a written statement by the Complainants, the notary was not present when they signed the mortgage loan closing documents; and

b. According to an interview conducted with one of the Complainants on May 27, 2008, the notary was not present when the Complainants signed the mortgage loan closing documents;

ii. Respondents engaged in a practice of steering borrowers into Pay Option ARM programs by misrepresenting the payment terms, specifically:

1. During an interview, one (1) of Respondents' loan officers and Mr. Riley stated they steered borrowers into refinancing into Pay Option ARMs because the Yield Spread Premiums were much higher; and

2. Various complaints received by the Department, described above, demonstrate Respondents' pattern of improperly and deceptively placing borrowers into Pay Option ARM programs; and

p. Failed to furnish information to the Department within a reasonable time, specifically:

i. On Monday, February 25, 2008, the Department mailed a notice to Mr. Riley informing him that a statutory compliance examination was scheduled for Tuesday, March 4, 2008 at 9:30 a.m.;

- 1                   ii. A comprehensive list of books and records to be furnished to the examiner
- 2                   was enclosed in the notice mailed to Mr. Riley;
- 3                   iii. During a telephone conversation with the examiner in charge on or about
- 4                   Thursday March 6, 2008, Mr. Riley stated that he intended to shred all records
- 5                   related to the mortgage broker business of ADM;
- 6                   iv. During a telephone conversation with the examiner on Tuesday April 29,
- 7                   2008, Mr. Riley confirmed "every single document that had to do with
- 8                   Arizona Discount Mortgage, LLC was shredded." Mr. Riley further confirmed
- 9                   he "shredded the documents on the day [the Department] scheduled the
- 10                  exam"; and
- 11                  v. As of the date of this Report of Examination, none of the books and records
- 12                  requested by the examiner have been provided for review.

13           5. On March 4, 2008, the Department received correspondence from Mr. Riley informing  
14 the Department ADM would be closing, effective immediately.

15           6. On May 1, 2008, the Department sent a letter to Mr. Riley via certified mail stating, in  
16 part, "Your returning your license does not terminate the Department's jurisdiction to investigate any  
17 mortgage broker activity". The letter informed Mr. Riley that the Department "may take regulatory  
18 action if warranted by the investigation." The return receipt was never returned to the Department.

### 19                                   LAW

20           1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to  
21 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,  
22 rules, and regulations relating to mortgage brokers.

23           2. By the conduct set forth in the Complaint, Arizona Discount Mortgage, LLC and Mr.  
24 Riley violated the following:

- 25                   a. A.A.C. R20-4-917(B)(9), by failing to maintain a complete organizational file;
- 26                   b. A.R.S. §§ 6-909(C) and 6-906(D), by issuing false, misleading and/or deceptive



- 1 advertisements/solicitations and failing to include the required disclosures within  
2 regulated advertising;
- 3 c. A.A.C. R20-4-917(B)(7), by failing to maintain samples of every piece of advertising  
4 relating to the mortgage broker's business in Arizona;
- 5 d. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B), by failing to maintain correct and  
6 complete records;
- 7 e. A.A.C. R20-4-917(B)(2), by failing to maintain a complete record of monies  
8 received;
- 9 f. A.A.C. R20-4-917(B)(3), by failing to maintain a complete listing of checks written;
- 10 g. A.A.C. R20-4-917(B)(4), by failing to maintain bank account activity source  
11 documents;
- 12 h. A.A.C. R20-4-917(C), by failing to update and reconcile records;
- 13 i. A.A.C. R20-4-917(D) and A.A.C. R20-4-917(E), by failing to maintain records for  
14 the prescribed statutory period;
- 15 j. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B)(6), by failing to maintain originals of  
16 copies of loan transactions;
- 17 k. A.R.S. § 6-909(A) and A.A.C. R20-4-921, by allowing borrowers to sign regulated  
18 documents containing blank spaces;
- 19 l. A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e), by failing to comply with the  
20 disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C.  
21 §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§  
22 2601 through 2617), and the regulations promulgated under these acts;
- 23 m. A.R.S. § 6-906(C), by using a disclosure in conflict with Arizona law;
- 24 n. A.R.S. § 6-909(L), by making false promises, misrepresentations and/or concealing  
25 essential or material facts in the course of the mortgage broker business;
- 26 o. A.R.S. § 6-909(N), by engaging in illegal or improper business practices; and

1           p. A.R.S. § 6-124(C), by failing to furnish information to the Department within a  
2           reasonable time.

3           3.       The violations of applicable laws, set forth above, constitute grounds to suspend or  
4       revoke ADM's and Mr. Riley's mortgage broker license, number MB 0908156, pursuant to A.R.S. §  
5       6-905(A).

6           4.       Respondents refused to permit an examination by the Department of ADM's books  
7       and affairs, which is a violation of A.R.S. § 6-124(C) and constitutes grounds for the suspension or  
8       revocation of ADM's mortgage broker license pursuant to A.R.S. § 6-905(A)(4).

9           5.       Respondents made false promises and misrepresented or concealed essential or  
10      material facts in the course of the mortgage broker business by concealing material facts and making  
11      misrepresentations regarding Pay Option ARM programs and making false promises in  
12      advertisements, which are violations of A.R.S. § 6-909(L) and constitute grounds for the suspension  
13      or revocation of ADM's mortgage broker license pursuant to A.R.S. § 6-905(A)(3).

14          6.       Respondents engaged in a practice of improperly notarizing mortgage loan  
15      documents, thereby engaging in illegal or improper business practices, which is a violation of A.R.S.  
16      § 6-909(N) and constitutes grounds for the suspension or revocation of ADM's mortgage broker  
17      license pursuant to A.R.S. § 6-905(A)(3).

18          7.       Respondents failed to furnish information to the Department within a reasonable time,  
19      which is a violation of A.R.S. § 6-124(C) and constitutes grounds for the suspension or revocation of  
20      ADM's mortgage broker license pursuant to A.R.S. § 6-905(A)(4).

21          8.       The violations, set forth above, constitute grounds for the pursuit of any other remedy  
22      necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona  
23      pursuant to A.R.S. §§ 6-123 and 6-131.

24          9.       Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes  
25      are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation  
26      for each day.

10. Pursuant to A.R.S. § 6-125(B)(4), Respondents shall be assessed an examination fee of two thousand, six hundred dollars (\$2,600.00) pursuant to A.R.S. § 6-122(B)(3)

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above-described violations or other grounds for disciplinary action, the Superintendent may suspend or revoke Arizona Discount Mortgage LLC's and Mr. Riley's mortgage broker license pursuant to A.R.S. § 6-905(A); order any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona under A.R.S. §§ 6-123 and 6-131; and impose a civil money penalty pursuant to A.R.S. § 6-132.

DATED this 14 day of October, 2008.

Felecia A. Rotellini  
Superintendent of Financial Institutions

By Robert D. Charlton  
Robert D. Charlton  
Assistant Superintendent of Financial Institutions

ORIGINAL of the foregoing filed this 14<sup>th</sup>  
day of October, 2008, in the office of:

Felecia A. Rotellini  
Superintendent of Financial Institutions  
Arizona Department of Financial Institutions  
ATTN: Susan L. Longo  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

COPY mailed/delivered same date to:

Hon. Brian Tully  
Administrative Law Judge  
Office of the Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, AZ 85007

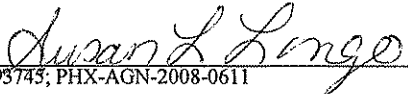
1 Erin O. Gallagher  
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2 Office of the Attorney General  
1275 West Washington  
3 Phoenix, AZ 85007

4 Robert D. Charlton, Assistant Superintendent  
J.P. Ciudad, Examiner in Charge  
5 Arizona Department of Financial Institutions  
2910 N. 44th Street, Suite 310  
6 Phoenix, AZ 85018

7 AND COPY MAILED SAME DATE by  
Certified Mail, Return Receipt Requested, to:

8 Arizona Discount Mortgage, LLC  
9 Attn: Michael T. Riley, Owner  
629 N. Sarival Ave.  
10 Goodyear, AZ 85338  
Respondents

11 Michael T. Riley, Statutory Agent for:  
12 Arizona Discount Mortgage, LLC  
629 N. Sarival Ave.  
13 Goodyear, AZ 85338

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293743; PHX-AGN-2008-0611